



**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**RIN 0648-BL56**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Fishery Management Plans of Puerto Rico, St. Croix, and St. Thomas and St. John; Amendments 1**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Announcement of availability of fishery management plan amendments; request for comments.

**SUMMARY:** The Caribbean Fishery Management Council (Council) has submitted Amendment 1 to the Puerto Rico Fishery Management Plan (FMP), Amendment 1 to the St. Croix FMP, and Amendment 1 to the St. Thomas and St. John FMP (jointly Amendments 1) for review, approval, and implementation by NMFS. If approved by the Secretary of Commerce, Amendments 1 would modify the authorized gear types to prohibit the use of buoy gear by the recreational sector in U.S. Caribbean Federal waters and modify the regulatory definition of buoy gear to increase the maximum number of hooks from 10 to 25 in U.S. Caribbean Federal waters for fisheries where buoy gear is authorized. The purpose of

Amendments 1 is to allow commercial fishermen targeting deep-water fish, including snappers and groupers, in the U.S. Caribbean Federal waters to use buoy gear with up to 25 hooks, while protecting deep-water reef fish resources and habitats and minimizing user conflicts.

**DATES:** Written comments on Amendments 1 must be received on or before *[insert date 60 days after date of publication in the FEDERAL REGISTER]*.

**ADDRESSES:** You may submit comments on Amendments 1 identified by "NOAA-NMFS-2023-0032" by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *<https://www.regulations.gov>* and enter "NOAA-NMFS-2023-0032", in the Search box. Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Maria Lopez-Mercer, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public

viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of Amendments 1, which includes a fishery impact statement and a regulatory impact review, may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/generic-amendment-1-island-based-fishery-management-plans-modification-buoy-gear-definition>.

**FOR FURTHER INFORMATION CONTACT:** Maria Lopez-Mercer, telephone: 727-824-5305, or email: [maria.lopez@noaa.gov](mailto:maria.lopez@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or FMP amendment to the Secretary of Commerce for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, publish an announcement in the **Federal Register** notifying the public that the FMP or

amendment is available for review and comment.

The Council prepared the Puerto Rico FMP, St. Croix FMP, and St. Thomas and St. John FMP (collectively the island-based FMPs) that are being revised by Amendments 1. If approved, Amendments 1 would be implemented by NMFS through regulations at 50 CFR part 600 and 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

### **Background**

The Council manages reef fish and pelagic stocks and stock complexes in the U.S. Caribbean Exclusive Economic Zone (EEZ) under the island-based FMPs. The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and to achieve, on a continuing basis, the optimum yield from federally managed fish stocks to ensure that fishery resources are managed for the greatest overall benefit to the Nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. The Magnuson-Stevens Act also authorizes the Council and NMFS to regulate fishing activity to support the conservation and management of fisheries, which may include regulations that pertain to fishing for non-managed species.

On September 22, 2020, the Secretary of Commerce approved the island-based FMPs under section 304(a)(3) of the Magnuson-Stevens Act. For Puerto Rico and the U.S. Virgin Islands (USVI), the Council and NMFS manage fisheries under the island-based FMPs. NMFS published the final rule to implement the island-based FMPs on September 13, 2022 (87 FR 56204). The island-based FMPs contain management measures applicable for Federal waters off each respective island group. Among other measures, for reef fish and pelagic species managed in each island management area, these include allowable fishing gear and methods for harvest. Federal waters around Puerto Rico extend seaward from 9 nautical miles (nmi; 16.7 km) from shore to the offshore boundary of the EEZ. Federal waters around St. Croix, and St. Thomas and St. John extend seaward from 3 nmi (5.6 km) from shore to the offshore boundary of the EEZ. Federal regulations at 50 CFR 600.725(v)(V) describe the authorized fishing gear for each of the Council-managed fisheries and non-managed fisheries in each island management area.

In the U.S. Caribbean, small-scale commercial fishermen harvesting deep-water reef fish, particularly snappers (e.g., queen and cardinal snappers) and groupers, typically use a specific type of hook-and-line gear. This hook-and-line gear is

known locally as vertical bottom line or "cala" in Puerto Rico and as vertical setline or deep-drop gear in the USVI. Fishing gear configurations and methods used by commercial fisherman to harvest these deep-water snappers and groupers, which includes buoy gear, varies in terms of vessel fishing equipment and materials used, hook type, size and number, number of lines used, types of bait, soaking time, and fishing grounds. Vertical bottom line fishing gear and deep-drop fishing gear can be either attached to the vessel while deployed and retrieved with an electrical reel or unattached to the vessel when rigged and deployed as buoy gear and retrieved with an electrical reel. Buoy gear, known as "cala con boya" in Puerto Rico and deep-drop buoy gear in the USVI, is typically used to harvest deep-water snappers and groupers in waters up to 1,500 ft (457 m), by commercial fishermen in Puerto Rico and to a lesser extent in the USVI.

Buoy gear is defined in 50 CFR 622.2 as fishing gear that fishes vertically in the water column that consists of a single drop line suspended from a float, from which no more than 10 hooks can be connected between the buoy and the terminal end, and the terminal end contains a weight that is no more than 10 lb (4.5 kg). This current definition of buoy gear applies in Federal waters of the Gulf of Mexico, South

Atlantic, and U.S. Caribbean. In addition, buoy gear is listed as an authorized hook-and-line gear type in 50 CFR 600.725(v)(V) for those fishing commercially and recreationally for species that are not managed by the Council (*i.e.*, non-FMP species) in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John and for those fishing commercially for managed reef fish and managed pelagic species in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. As described in Amendments 1, although buoy gear is currently listed as an authorized gear for recreational fishing of species that are not managed under the island-based FMPs, there is no evidence that the recreational sector operating in U.S. Caribbean Federal waters uses or has used buoy gear. Use of buoy gear by the recreational sector is unlikely because it is a very specialized commercial gear type that is expensive and difficult to use by anyone other than a professional commercial fisherman.

In December 2021, commercial fishermen fishing for deep-water snapper and grouper in Puerto Rico and the USVI have commented to the Council that they would like to increase the maximum number of hooks that are allowed while using buoy gear to reflect how the gear is currently used in state waters in both Puerto Rico and the USVI. Under the current definition of buoy

gear that applies in Federal waters of the Gulf of Mexico, South Atlantic, and U.S. Caribbean, no more than 10 hooks may be connected between the buoy and the terminal end. Puerto Rico and USVI territorial regulations, on the other hand, do not limit the number of hooks allowed on deep-water reef fish buoy gear.

In Amendments 1, the Council decided to limit the use of buoy gear in U.S. Caribbean Federal waters to those fishing commercially and to prohibit the use of buoy gear by those fishing recreationally. By prohibiting the use of buoy gear by the recreational sector in U.S. Caribbean Federal waters, the Council sought to eliminate (1) potential future conflicts between commercial and recreational user groups at the subject fishing grounds, (2) additional ecological, biological, and physical effects that might result from recreational fishing for deep-water snapper and grouper, including risks to managed species that may result from misuse of buoy gear and bycatch of managed species by the recreational sector, and (3) any safety concerns potentially associated with the recreational use of buoy gear at the deep-water reef fish fishing grounds. In Amendments 1, the Council also decided to modify the definition of buoy gear to allow commercial fishermen in U.S. Caribbean Federal waters to use a



maximum of 25 hooks with buoy gear to reflect how the gear is commonly used by commercial fishermen in state waters in Puerto Rico and the USVI.

### **Actions Contained in Amendments 1**

Amendments 1 would prohibit the use of buoy gear by the recreational sector in the U.S. Caribbean and would modify the buoy gear definition to increase the maximum number of allowable hooks used by the commercial sector in the U.S. Caribbean.

#### *Recreational Buoy Gear Prohibition*

Buoy gear is currently an authorized gear type for those fishing recreationally for species that are not managed by the Council (*i.e.*, non-FMP species) in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. As described in Amendments 1, although the use of buoy gear by the recreational sector currently appears unlikely, the Council took a precautionary approach to prevent any future use of buoy gear by the recreational sector to fish for any species (*i.e.*, managed and non-managed species) in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. NMFS notes that with respect to non-managed species, the Magnuson-Stevens Act gives the Council and NMFS the authority to regulate fishing activity to support the conservation and management of

fisheries. This can include regulations that pertain to fishing for non-managed species.

By limiting the use of buoy gear to the commercial sector, the Council seeks to prevent any potential future conflicts between commercial and recreational user groups resulting from the use of buoy gear. These potential conflicts could include competition for fishing grounds. The Council also seeks to eliminate any additional ecological, biological and physical effects that might occur through additional recreational fishing-related pressure at those grounds and to those resources. Specifically, the Council was concerned about overfishing the deep-water snapper and grouper resources, risks to managed species resulting from the misuse of the buoy gear, and increased bycatch of managed species that might result through the recreational use of buoy gear. Finally, the Council seeks to eliminate any safety concerns potentially associated with the presence of an emerging recreational fleet at the deep-water reef fish fishing grounds that could occur because of the specialized characteristics of the buoy gear operations.

#### *Revision of Buoy Gear Definition*

The current buoy gear definition, which applies in Federal waters of the Gulf of Mexico, South

Atlantic, and U.S. Caribbean, specifies, among other measures, that this gear type may have no more than 10 hooks connected between the buoy and the terminal end.

In Amendments 1, the Council seeks to change the buoy gear definition to increase the maximum number of hooks allowed between the buoy and the terminal end from 10 to 25 hooks in the EEZ around Puerto Rico, St. Croix, and St. Thomas and St. John. This change in the buoy gear definition would apply only where buoy gear is authorized in the U.S. Caribbean EEZ, and would apply only to the commercial sector as a result of Action 1 in Amendments 1. NMFS notes that this change would apply to the commercial harvest of both Council-managed fisheries and non-managed fisheries. The increased number of authorized buoy gear hooks would allow commercial fishermen fishing in Federal waters off Puerto Rico, St. Croix, and St. Thomas and St. John to legally use the same gear configuration that is commonly used by some commercial fisherman in state waters.

This action to revise the buoy gear definition in the U.S. Caribbean would also avoid enforcement complications for commercial fishermen harvesting multiple species on a trip because it would allow the use of the buoy gear with up to 25 hooks to harvest managed and non-managed deep-water fish. The change to

the buoy gear definition would not change any other part of the buoy gear definition such as weight, construction materials for the drop line, and length of the drop line. Additionally, the current buoy gear definition, as it applies to the Gulf of Mexico and South Atlantic, would not change as a result of Amendments 1.

#### **Proposed Rule for Amendments 1**

A proposed rule to implement Amendments 1 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMPs, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

#### **Consideration of Public Comments**

The Council has submitted Amendments 1 for Secretarial review, approval, and implementation. Comments on Amendments 1 must be received by [*insert date 60 days after date of publication in the FEDERAL REGISTER*]. Comments received during the respective comment periods, whether specifically directed to Amendments 1 or the proposed rule will be considered by NMFS in the decision to approve, disapprove, or partially approve Amendments 1. Comments received

after the comment periods will not be considered by NMFS in this decision. All comments received by NMFS on the amendments or the proposed rule during their respective comment periods will be addressed in the final rule.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: March 30, 2023.

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Jennifer M. Wallace,  
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National Marine Fisheries Service.

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